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Fairness For Our Public Servants

The Report of

The 1989 Commission on Executive,

Legislative and Judicial Salaries

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The 1989 Commission on Executive,

Legislative and Judicial Salaries

December 15, 1988

Members of the 1989 Commission on Executive, Legislative and Judicial Salaries

Appointed by the President:

Lloyd N. Cutler, Chairman
Wilmer, Cutler & Pickering

William M. Agee
Chairman and Chief Executive Officer
Morrison Knudsen Corporation

Preston R. Tisch
President and Co-Chief Executive Officer
Loews Corporation

Appointed by the President of the Senate:

Honorable Thomas F. Eagleton
Thompson & Mitchell

Honorable Charles McC. Mathias
Jones, Day, Reavis & Pogue

Appointed by the Speaker of the House of Representatives:

Honorable William R. Ratchford
Gold & Leibengood

John J. Creedon
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Metropolitan Life Insurance Company

Appointed by the Chief Justice of the United States:

James T. Lynn
Chairman and Chief Executive Officer
Aetna Life and Casualty Company

Carlisle Humelsine
Chairman, Executive Committee
Smithsonian Regents

Executive Director
Polly L. Gault

COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

December 15, 1988

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of the fiscal 1989 Quadrennial Commission on Executive, Legislative and Judicial Salaries, I enclose herewith the Commission's report to you.

The Commission's principal function is to recommend appropriate salary levels for the top positions in the three branches of our government so that you may perform your statutory duty of making your own recommendations to the Congress as part of your proposed budget for fiscal 1990. Under the Quadrennial Commission statute, as amended in 1985, your recommendations take effect automatically unless and to the extent that within 30 days of your submission Congress agrees on a joint resolution disapproving part or all of such recommendations.

The Commission has concluded that the best way to measure the adequacy of present salary levels is to compare them with the salary levels which the President recommended to Congress in 1969, based on the report of the first Quadrennial Commission, and which Congress allowed to go into effect. We have found that present salary levels, stated in constant dollars, are approximately 35% less than the salary levels fixed for the same positions in 1969. Thus, our top federal officials have seen their salaries severely eroded by inflation while the compensation of all workers in the private sector has slightly improved over inflation during the same 20-year period.

As a result, many of our top Executive branch officials, members of Congress and federal judges find that they cannot remain in public office without imposing severe hardships on their families. One of our most distinguished judges, who was appointed before 1969, expressed concern that if he remained on the bench he would be unable to provide for his children the same educational opportunities that had enabled him to become a federal judge.

We have found that as a result of this salary erosion, the average period of service for top Executive branch officials has declined to 18 months. Many members of Congress are declining to stand for another term even though the reelection success rate of incumbents is better than 90%. More federal judges are resigning from the bench and returning to law practice than ever before.

We have also found that because their salaries are so inadequate, many members of Congress are supplementing their official compensation by accepting substantial amounts of "honoraria" for meeting with interest groups which desire to influence their votes. Albeit to a less troubling extent, the practice of accepting honoraria also extends to top officials of the Executive and Judicial branches.

Finally, we have also found that the inadequacy of present federal salaries severely limits the ability of all three branches to attract the most highly qualified individuals to enter the public service. The top AIDS researcher at NIH testified that because of present salary limitations, NIH has been unable for the last ten years to attract <u>any</u> qualified scientist to fill its most important senior research positions. Retired Chief Justice Warren Burger informed us that he knew of one Court of Appeals vacancy that was turned down by ten qualified lawyers before anyone could be found to fill it.

Accordingly, the Commission unanimously recommends that salary levels for top federal officials be set at approximately the same amount in constant dollars as the salary established for the same positions in 1969, with appropriate adjustments to maintain current relationships among the various positions. We further recommend that Congress enact legislation abolishing the practice of accepting honoraria in all three branches. We are advised by the Office of Management and Budget that these salary increases will be offset by other savings in personnel costs.

We appreciate the opportunity of serving on the Commission. We believe the time has come to pay fair salaries to our highest federal officials, and that fairness to them is in the national interest of us all.

Sincerely,

Lloyd N. Cutler

Lloyd N. Cutler
Chairman

REPORT OF THE 1989 QUADRENNIAL COMMISSION

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PREFACE

"A public office is a public trust."
Senator Charles Sumner, 1872

The public interest is best served when public offices are filled by the most capable and conscientious citizens willing to assume the burden. No qualified citizen should be deterred from serving in public office by inadequate levels of compensation. While public salaries need not match private salaries dollar for dollar, they should not be so low that public servants are asked to forego major educational and quality of life opportunities for their families that would be available to the same highly qualified individuals in private life.

Public service carries with it many well-known and broadly accepted burdens: invasion of individual and family privacy; meticulous reporting of all financial holdings and activities; adherence to a strict code of ethical behavior while in office; restrictions on personal conduct after returning to private life; the risk of unfair accusation of having violated any of the foregoing; and the daily weight of responsibility for decisions that affect millions of other citizens. But at present the heaviest burden of all is the huge disparity between federal pay and the pay for private sector positions requiring comparable skills.

Most who seek or accept high public office do so despite rather than because of the salaries these positions pay. Much more important motivations are the pride, prestige, and privilege of service, and the opportunity to contribute to the greater public good.

The initial decision to serve, however, comes more easily than remaining in service for an extended period. Levels of compensation in the private sector have more than kept pace with inflation over the past twenty years. But the levels of salaries of high federal officials are now only about 65-70% in constant dollars of what their 1969 salaries were for the same positions. Federal judges are resigning their lifetime appointments at a higher rate than ever before. The average tenure of the most senior Executive branch officials is approximately 18 months. A growing number of incumbent Members of Congress do not stand for reelection even though the reelection success rate of incumbents is now over 90%. This growing trend toward early departure from public life shows that however strong the desire to serve may be, the financial penalties of remaining in public service are causing some of our most able officials to return to private life because the disparity in financial rewards becomes just too much.

As part of its deliberations, the Commission held two days of public hearings. Our witnesses included many of the nation's leaders in both the public and private sectors. Almost all expressed deep concern over the inadequate levels of compensation for top federal officials, and the signals these relatively low salary levels send to all citizens—and especially to incumbents and prospective appointees—as to how cheaply and lightly we value the work our highest public serv-

ants perform. The detrimental impact of inadequate compensation on the ability of these officials to provide for their their families was especially noted as a cause of major anxiety.

While witnesses before the Commission agreed that no one serving in government should expect to be paid as much as for a comparable position in the private sector, they also agreed that when the differential exceeds 50%, as it does by a wide margin today, corrective steps are required.

Mr. James C. Miller III, until recently Director of the Office of Management and Budget, advised the Commission that the increases necessary to restore equity in salaries for top level Executive branch officials could and would be offset by overall reductions in other budgeted personnel costs so as to have no effect on the level of Executive branch expenditures in the budget. The testimony of the legislative witnesses persuades the Commission that a similar offset could be achieved in the Legislative branch.

Several witnesses also pointed out that because of their inadequate salaries, many Members of Congress have resorted to supplementing their income by accepting honoraria of up to $2,000 per occasion for making a speech or even attending a Washington meeting or other event. Currently, Representatives may receive outside earned income, including honoraria up to 30% [$26,550] of annual salary, while Senators may receive honoraria up to 40% [$35,800] of annual salary with no percentage limit on other forms of outside earned income.

The testimony indicated that the average annual level of honoraria income exceeds 20% of salary, with many Members receiving and retaining much larger amounts, and that in many cases, the payments come from interest groups with highly specific legislative axes to grind. Much of this testimony was given by leading present and former Members of Congress. They agreed with other concerned witnesses that in order to maintain public confidence in the integrity of Congress, Congressional salaries should be raised to adequate levels, and that at the same time, honoraria should be abolished.

SUMMARY OF MAJOR RECOMMENDATIONS

For the reasons stated in the previous section, the 1989 Commission on Executive, Legislative and Judicial Salaries unanimously makes the following recommendations:

Recommendation #1: As part of his fiscal year 1990 budget submission, the President should recommend salary levels for senior members of the Executive, Legislative and Judicial branches which approximate in constant dollars the salaries set for these positions twenty years ago, with appropriate adjustments to maintain existing relative differentials between the various pay levels. The suggested recommendations for each position are shown in Table 1.

Recommendation #2: Congress should enact legislation to increase the President's salary, which has been fixed at $200,000 since 1969, to $350,000, adjusted for inflation for the calendar years 1989–1992. As Constitutionally required, this increase would not take effect until January 20, 1993.

Recommendation #3: Congress should enact legislation and each House should modify its Ethics Code to abolish honoraria (or payments that are the substantial equivalent of honoraria) as a permissible source of outside earned income for all three branches, effective when the recommended pay increases begin.

Recommendation #4: Congress should enact legislation and each House should modify its Ethics Code to specify, in addition to existing restrictions, that no official of the Executive, Legislative or Judicial branches may receive outside earned income for activities or services that conflict or appear to conflict with the performance of official duties.

Recommendation #5: Congress should enact legislation correcting current inequities in levels of compensation between positions. Such legislation should include the following:

- Raising the position of Chairman of the Federal Reserve Board from Level II to Level I of the Executive Schedule;
- In those Departments without Deputy Secretary positions (Health and Human Services, Education, Interior, Housing and Urban Development), raising the level of the second highest position to Level II;
- Raising the positions of the Commissioner of the Social Security Administration, the Assistant Secretary for Health, and the Administrator of the Health Care Financing Administration from Level IV to Level III;
- Raising the maximum salary level for Administrative Law Judges and judges who serve on Boards of Contract Appeals to that of members of the Senior Executive Service. Additionally, the Office of Personnel Management should conduct a comprehensive review of the General Schedule pay system for supergrades (GS–16—GS–18) in relation to the pay levels of the Senior Executive Service, and report back to the Congressional authorizing committees for legislative review.

Table I

THE COMMISSION'S RECOMMENDATIONS

	Current Salary January 1989	Annual 1989 Salary Adjusted to Constant Dollars[1]	Recommended Salary
EXECUTIVE BRANCH			
Vice President	$115,000	$206,400	175,000
Executive Schedule: Level I	99,500	178,520	155,000
Level II	89,500	140,340	135,000
Level III	82,500	132,000	125,000
Level IV	80,700	125,480	120,000
Level V	75,500	118,890	115,000
LEGISLATIVE BRANCH			
Speaker of the House	115,000	206,400	175,000
President Pro Tem, Majority & Minority Leaders	99,500	163,400	155,000
Senators, Representatives & Delegates	89,500	140,300	135,000
Resident Commissioner of Puerto Rico	89,500	140,300	135,000
Comptroller General	89,500	140,300	135,000
Deputy Comptroller General	82,500	132,080	125,000
Director of CBO & Librarian of Congress	82,500	132,080	125,000
Architect of the Capitol	82,500	132,080	125,000
Gen. Counsel, GAO & Asst. Architect	80,700	125,480	120,000
Deputy Director, CBO & Deputy Librarian of Congress	80,700	125,480	120,000
JUDICIAL BRANCH			
Chief Justice & Retired Chief Justice	115,000	206,400	175,000
Associate Justices & Retired Associate Justices	110,000	198,120	165,000
Judges: U.S. Courts of Appeals	95,000	140,300	140,000
Court of Military Appeals	95,000	140,300	140,000
U.S. District Courts	89,500	132,080	135,000
Court of International Trade	89,500	132,080	135,000
U.S. Tax Court	89,500	132,080	135,000
U.S. Claims Court	89,500	N/A	135,000
Director, Administrative Office of the U.S. Courts	89,500	132,080	135,000
Deputy Director, Administrative Office of the U.S. Courts*	80,700	118,970	120,000

Source: Office of Management and Budget

*Level IV is the maximum for this position

[1] The list does not include the Board of Governors of the U.S. Postal Service.
There are 9 members in part time positions. Current salary $15,000

CHAPTER I

COMPENSATING SENIOR FEDERAL OFFICIALS

History of the Federal Salary Question

The question of appropriate compensation for service to the Federal Government is as old as the republic itself. The Constitution provides that Members of Congress "shall receive a Compensation for their Services, to be ascertained by Law," that the President shall receive "a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected," and that the Judges shall "receive for their Services a Compensation which shall not be diminished during their Continuance in Office."

In 1789, when Congress was in session for only comparatively brief periods throughout the year, its compensation "ascertained by Law" was $6 per meeting day. *Per diem* rates of between $6 and $8 prevailed for the next 67 years, until 1856. From the beginning the level of compensation for Executive branch officials and judges has been dominated by the level Congress was willing to legislate for itself.

In a submission to the 1986 Quadrennial Commission entitled *Promises Made, Promises Still Unkept: Restoration of Inflation-Induced Salary Cuts for Top Government Officials*, the historic turmoil surrounding enactment of salary increases was described as follows:

> "The current difficulties faced by the Nation in setting equitable compensation levels for top government officials are not new, nor is their source hard to identify. Indeed, few would quarrel with the assessment of Congressman Morris K. Udall that since the founding of the Republic debates over Congressional salaries have 'produce(d) more self-righteousness and more passionate oratory and more posturing and more nonsense . . . than almost any other subject.'
>
> "Congress' first attempt to raise its own pay occurred in 1816, when both houses voted to change their compensation from the $6 per day rate established by the First Congress to $1,500 per session. The political reaction caused a swift retreat; the measure was repealed the next year. The public outcry was vividly described by Lewis Condict of New Jersey [Member, U.S. House of Representatives, 1811-1817, 1821-1833, Anti-Federalist] as follows:
>
> > 'The tranquility of the public mind at that season [in 1816] was highly favorable for the views of the demagogues of faction and noise. A universal calm pervaded every section. Party animosity had subsided. Political distinctions had

nearly ceased. The Federal co-partnership was dissolved. The Hartford Convention had dispersed. Bonaparte in St. Helena. No embargo. No war. Newspaper editors were in danger of starvation, and for want of other prey, they pounced upon the compensation law, and, like Peter's brown loaf, it has served them for beef and mutton, custard, and plum pudding. It was standing dish for months, and was served up in every possible shape, boiled and roasted, stewed and fricasseed. Devoured by the demagogues of faction, it has been reissued from their pestiferous jaws at the tippling houses and dram shops, highly seasoned with falsehood and misrepresentation. And this is called 'public sentiment', and 'public opinion'. This is 'instruction from our constituents', which the Representative is bound to obey."

"The pattern had emerged and was to be repeated. In 1873, after Congress had voted to increase its salary from $5,000 to $7,500, the Democratic Convention adopted a resolution stating:

> 'We condemn and denounce the salary grab, and all Congressmen, Democratic or Republican, who voted for it, or have not renounced all share in plunder seized . . .'

"William Lawrence, [Member, U.S. House of Representatives, 1865-1871, 1873-1877] Republican of Ohio, said that only two events in his memory—the Missouri Compromise and the attack on Fort Sumter—had aroused as much indignation.

"Subsequent generations of Senators and Representatives have shied away from voting to increase salaries, recognizing the inherent political risk attendant to such a vote. As one current Senator [John C. Danforth, Republican of Missouri] put it '(to) vote for your own pay increase is an invitation to a 30-second spot commercial against you in your next campaign.' Because the compensation of judges and senior executives has been historically linked to Members of Congress, the reluctance of Congress to raise its own pay had held down salaries in the other branches as well."

The Federal Salary Act and the Quadrennial Commission

Faced with these persistent political realities, escalating inflation, and continued attrition of top federal employees, Congress passed the 1967 Federal Salary Act in an effort to resolve the problem by changing the process for fixing salary levels. As a central feature of the Act, Congress created a quadrennial Commission on Executive, Legislative, and Judicial Salaries. Three members are appointed by the President, two by the President of the Senate, two by the Speaker of the House, and two by the Chief Justice of the United States. The commission is instructed to make salary recommendations and submit them to the President, who is in turn required to submit his own recommendations to Congress in his budget message for the next fiscal year. The President's recommendations then take effect subject to a process for Congressional review.

The procedure for Congressional review has been modified from time to time. Under the most recent amendment adopted in 1985, the President's recommendations now become effective automatically, unless and to the extent that a joint resolution of disapproval of all or part of the recommendations has been agreed to by both Houses within 30 calendar days after the

President's submission. Joint resolutions, of course, require the approval of the President or a Congressional override of his veto.

Over the years, the "Quadrennial Commission" process has sometimes resulted in approval of the President's recommendations and sometimes not. Although the political difficulties Members face regarding salary increases have been somewhat cushioned, these difficulties cannot be eliminated until Congress enacts legislation delegating the final power to set high-level Executive, Legislative and Judicial salaries either to the President or to a bipartisan commission appointed by the President with the advice and consent of the Senate. In the Commission's view a properly drafted statute along those lines would be constitutional and advisable.

Table II

POSITIONS UNDER MANDATE OF THE COMMISSION

	Annual Salary Jan. 1989	No. of Pos.
EXECUTIVE BRANCH		
Vice President	$115,000	1
Executive Schedule: Level I	99,500	19
Level II	89,500	67
Level III	82,500	202
Level IV	80,700	453
Level V	75,500	92
Total Executive Branch		834
LEGISLATIVE BRANCH		
Speaker of the House	115,000	1
President Pro Tem, Majority & Minority Leaders	99,500	5
Senators, Representatives & Delegates	89,500	533
Resident Commissioner of Puerto Rico	89,500	1
Comptroller General	89,500	1
Deputy Comptroller General	82,500	1
Director of CBO & Librarian of Congress	82,500	2
Architect of the Capitol	82,500	1
Gen. Counsel, GAO & Asst. Architect	80,700	2
Deputy Director, CBO & Deputy Librarian of Congress	80,700	2
Total Legislative Branch		549
JUDICIAL BRANCH		
Chief Justice & Retired Chief Justice	115,000	2
Associate Justices & Retired Associate Justices	110,000	9
Judges: U.S. Courts of Appeals	95,000	234
Court of Military Appeals	95,000	3
U.S. District Courts	89,500	799
Court of International Trade	89,500	14
U.S. Tax Court	89,500	34
U.S. Claims Court	89,500	18
Director, Administrative Office of the U.S. Courts	89,500	1
Deputy Director, Administrative Office of the U.S. Courts*	80,700	1
Total Judicial Branch		1,115
TOTALS		2,498

*Level IV is the maximum for this position.

The list does not include the Board of Governors of the U.S. Postal Service. There are 9 members in part time positions. Current salary $10,000.

Table III

OTHER POSITIONS WHOSE SALARY LEVELS ARE AFFECTED BY QUADRENNIAL COMMISSION RECOMMENDATIONS

Senior Executive Service		Senior Foreign Service (Equivalent or Approximate Level)	
ES-1	435		12
ES-2	569		41
ES-3	1,006		138
ES-4	3,657		583
ES-5	1,043		362
ES-6	404		120
Total	7,114	Total	1,256

General Schedule

Supergrades	
GS-16 GS-17 GS-18	1044
Total	1044

Other Legislative Positions

Office of Technology Assessment	1
Legislative Counsel House of Representatives	1
General Accounting Office/ Government Printing Office Staff	18
Total	20

Other Judicial Positions

Bankruptcy Judges	284
Magistrates	321
Tax Court Special Trial Judges	15
Director, Federal Judicial Center	1
Circuit Executives	12
Administrative Office of the U.S. Courts	6
Assistant to the Chief Justice of the U.S.	1
Total	640

CHAPTER II

RECOMMENDATIONS OF THE 1989 QUADRENNIAL COMMISSION

The Commission's Mandate

The Commission on Executive, Legislative and Judicial Salaries is chartered to determine:

- the appropriate pay levels and relationships between and among the respective offices and positions within its purview; and
- the appropriate relationships between such offices and those in the General Schedule.

Early in the deliberations of the 1989 Quadrennial Commission, it became clear that it was not feasible to approach our task without also considering a corollary issue:

- the ethical propriety of allowing Members of Congress and other high government officials to supplement their inadequate federal salaries by seeking and relying on outside earned income, primarily the practice of accepting "honoraria".

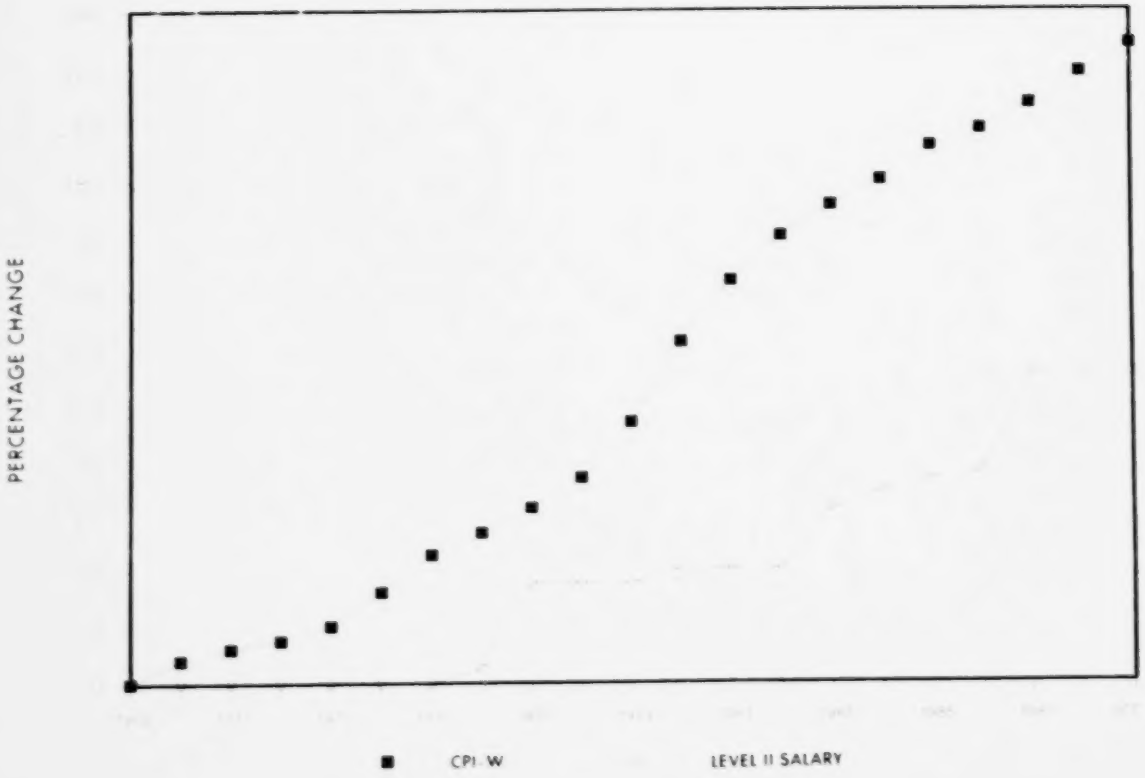
Senior Level Federal Salaries

The salary levels recommended by this Commission are based on the oral and written testimony we received and supporting statistics from governmental and private sector sources. The baseline year, 1969, was chosen because it was the first year in which Congress allowed a President's recommended federal pay raises, based in turn on the recommendations of the First Quadrennial Commission, to go into effect. While the choice of any baseline year will tend to produce different results than choosing some other baseline, the Commission believes that 1969 is the most logical starting point.

Loss of Purchasing Power. As *Chart I* illustrates, in the twenty years from the beginning of 1969 to the last quarter of 1988, the Consumer Price Index rose approximately 225%. More compelling, as of 1986, the national median purchase price of a new family home rose 258%. In the Washington, D.C. metropolitan area, the seat of the Federal Government, the average cost of a new home rose 328%.

Chart 1

LEVEL II SALARY VS. CPI-W



Source: Office of Personnel Management

Even though senior level federal salaries have been increased at least eight times since 1969, the current salaries for Members of Congress, district court judges and Level II executives have declined in constant dollars to approximately 65% to 70% of their salaries in 1969. [*Chart 2*] In contrast, other wage and salary earners in the United States have on average modestly increased their purchasing power in constant dollars by about 1.5% since 1969. Thus, high level government officials have suffered an erosion in the purchasing power of their salaries by more than one-third while private sector wage earners have on average at least maintained their purchasing power. No statistic could more clearly demonstrate how high-level public service today imposes a financial penalty on public servants and their families that often outweighs the privilege and satisfaction of answering the nation's call.

Comparability. There are several federal statutes that support the concept that federal workers should be paid salaries comparable to the private sector. The Federal Salary Act of 1967 reinforces the "guarantee" provided in the Federal Salary Reform Act of 1962 "to establish comparability between Federal civilian salaries and those in private enterprise."

The Federal Pay Comparability Act of 1970 is supposed to provide for a permanent method of adjusting rates of pay of federal employees, including certain employees of the Legislative, Judicial and Executive branches, to levels comparable to the private sector. This Act applies to all federal employees who are paid under the statutory pay systems, including General Schedule, Foreign Service, and the physicians, dentists and nurses of the Veterans Administration.

The procedure requires the President to direct such agent as he considers appropriate to prepare and submit to him annually a report that compares the rates of pay of the statutory pay systems with the pay in private industry on the basis of the annual survey of the Bureau of Labor Statistics, and recommend adjustments in rates of pay based on comparability.

The Advisory Committee on Federal Pay, which was also created by the Act, advises the President on the pay adjustments recommended by the pay agent. In 1988, for instance, the Advisory Committee on Federal Pay pointed out that a 26% pay gap existed between the private sector and the Federal Government.

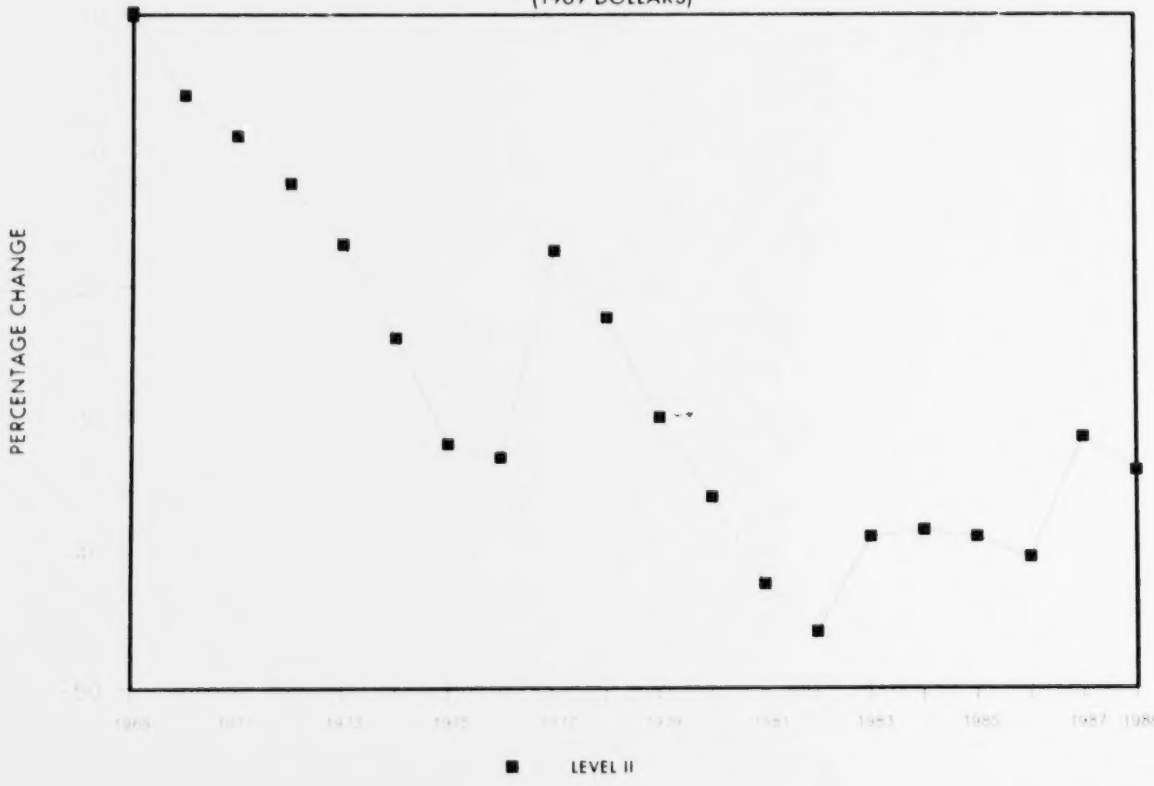
In 1975, Congress enacted legislation which provides for comparability pay adjustments specifically for Members of Congress, judges, positions under the Executive Schedule and other top positions in the Executive, Legislative and Judicial branches. The Executive Salary Cost of Living Adjustment Act was supposed to link pay adjustments for federal officials to the annual pay adjustment process for the other statutory pay systems.

The scope and effect of these various laws designed to assure comparability are summarized in *Appendix A*. As shown in the Appendix, their application to date has failed to achieve comparability by a wide margin.

The Commission believes that reasonable comparability must be achieved to prevent increasing numbers of essential federal personnel from leaving the government. Prestige, position and respect, while all extremely important benefits of top federal positions, do not enable the holders to provide for their families anywhere nearly as well as they could in comparable private sector positions.

Chart 2

LEVEL II PURCHASING POWER
(1969 DOLLARS)



Source: Office of Personnel Management

We believe that, insofar as the top executive, legislative and judicial positions are concerned, full pay comparability is not likely to be achieved between the public sector and the private profit-making sector, nor is it necessarily a desirable goal. But even if we look only at non-profit institutions and organizations, which provide psychic satisfactions similar to high federal offices, the salaries paid to high-level officers of major non-profit institutions such as universities, hospitals, and large cultural centers, generally are well above those paid in top levels of government. Testimony before the Commission indicated that top federal officials are paid substantially less than high officials in other public and private non-profit organizations. Many police chiefs, foundation executives, university presidents, hospital administrators, city managers, school superintendents and professors earn far more than their counterparts in high federal positions. [*Chart 3*].

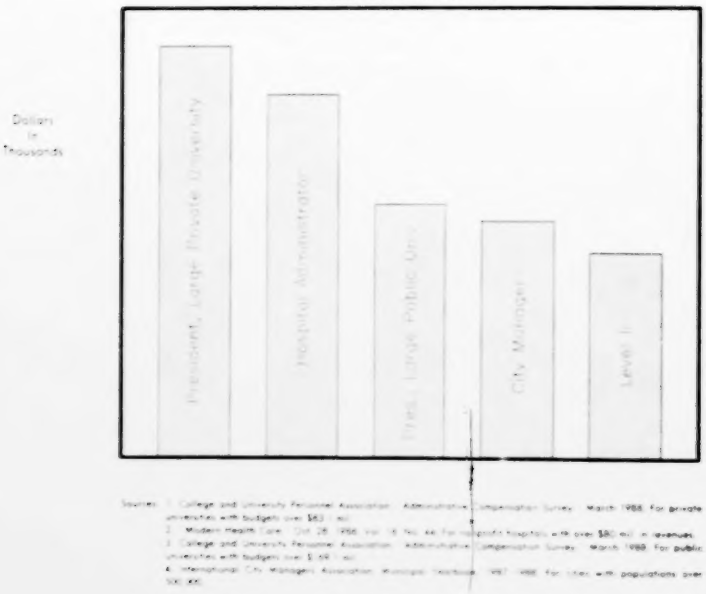
Major non-profit organizations maintain pay levels that are designed to attract the unique talents and experience needed for their top level management. Like high public officials, top leaders of these organizations are driven less by an interest in making a great deal of money than by their devotion to the public service mission of the particular institution they serve. Nevertheless, our major non-profit organizations must offer competitive salaries to attract top management candidates, many of whom are also very desirable potential recruits for high federal office. Since the motivations and financial needs of top non-profit executives closely resemble those of high public officials, public salaries should at least be competitive with those paid by major non-profit institutions to their top people.

The gap between public and private earning power becomes most noticeable when the children of top federal officials reach college age and the family, like so many families in America, is confronted with the stark reality of rapidly increasing college costs. Since 1969, the average cost of tuition, room and board has increased 282% at public universities and 398% at private universities, as illustrated by *Chart 4*. These increases substantially exceed the overall increases in the cost of living, because university costs are almost entirely service costs—the most inflationary sector of the economy.

These financial realities are the same as those faced by all American families, whether their breadwinners work in the public or private sectors, and regardless of their salary levels. However, as *Chart 5* shows, executive level salaries in the private sector have increased in constant dollars since 1969, while the salaries in constant dollars of Level II federal executives and other top federal officials have sharply declined.

Chart 3

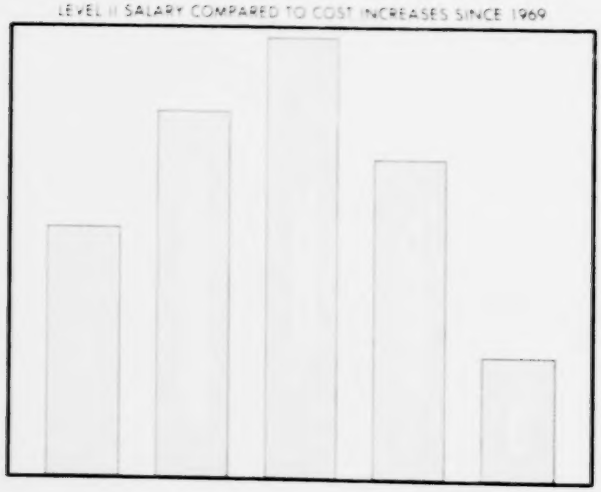
SALARIES OF NON-PROFIT EXECUTIVES
COMPARED TO LEVEL II



Sources: 1. College and University Personnel Association - Administrative Compensation Survey - March 1988. For private universities with budgets over $40 (+ ex)
2. Modern Health Care - Oct 28 1988 vol. 18 No. 44 For nonprofit hospitals with over $80 mill. in revenues.
3. College and University Personnel Association - Administrative Compensation Survey - March 1988. For public universities with budgets over $ 40 (+ ex)
4. International City Managers Association Municipal Yearbook 1987 - 1988 For cities with populations over 100 xx

Chart 4

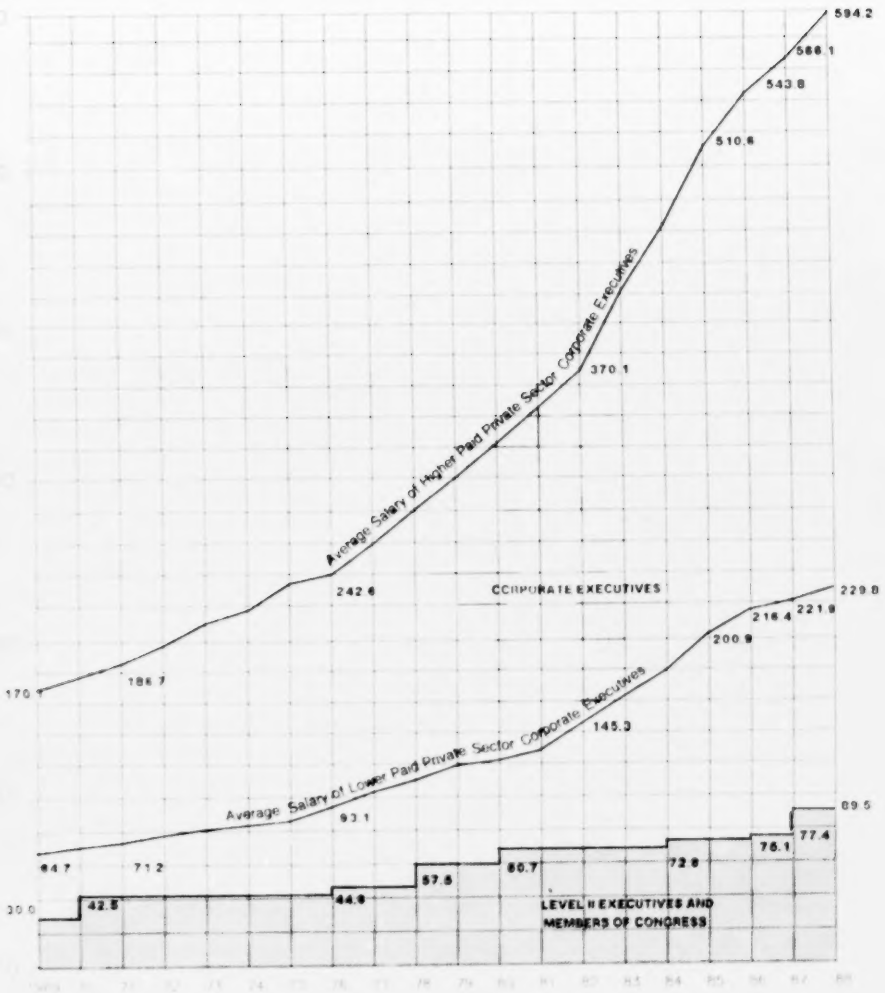
LEVEL II SALARY COMPARED TO COST INCREASES SINCE 1969



Sources: 1. Department of Labor, Bureau of Labor Statistics
2. National Association of Realtors
3. College Entrance Examination Board, The College Cost Book
4. IRS

Chart 5

SALARY COMPARISONS
LEVEL II EXECUTIVE PAY VERSUS
PRIVATE SECTOR CORPORATE EXECUTIVES
1969 TO 1988



Source HayGroup

The families of most executives at the level sought for senior federal positions know that such a family breadwinner can command a much higher salary in the private sector than in the government. It is therefore the family's sacrifice—in its educational options and its general standard of living—that the family breadwinner, in deciding to enter or leave federal service, must weigh along with the satisfaction and prestige this service offers, compared to the much higher financial rewards available in the private sector.

The President's Salary

The Commission notes that making recommendations on the salary of the President is not within its specific jurisdiction. Nonetheless, since the last increase in the President's salary, adopted by Congress in 1969, was based on the recommendations of the 1969 Quadrennial Commission, this Commission ventures to recommend that a further increase is in order now that twenty more years have passed, especially since all other federal compensation tends to be compressed by the level of the President's salary.

Article II of the Constitution of the United States provides that "The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected." This means that any increase enacted after January 20, 1989 could not take effect until at least January 20, 1993.

Appropriateness of Relationships

As part of its mandate, this Commission must address the question of the relative ranking of positions on the pay scale. Examples of obvious inequities are found within the Executive branch personnel structure. Previous attempts to evaluate the salaries and relationships of the over 500 positions in the Executive Schedule and to measure the importance of each job relative to some standard have not been successful. Studies conducted to analyze samples of positions throughout the Executive branch have concluded that no real standards exist for many positions, and that many are misclassified.

As an example, although all Cabinet Secretaries are paid the same salary, those who hold the second highest positions in all Cabinet Departments are not. For instance, the second highest position in the Department of Transportation, a Deputy Secretary, is paid more than the second highest position, an Under Secretary, in the Department of the Interior. The Department of Health and Human Services, in addition, has no Deputy Secretary, and although the individuals who head major subsections within the Department function at a level equivalent to a Level III position, they are paid at a Level IV.

The Commission wrote to 47 current and former Cabinet members to obtain their personal views on the appropriateness of relationships of executive salaries within their Departments, and as compared to other Departments and branches. The responses overwhelmingly supported maintaining the present five-tiered structure of the Executive Schedule, and the existing salary differentials between these levels. Significant increases for all Executive Schedule levels were also recommended in most of the responses. There was no adverse comment on the appropriateness of relationships compared to other Departments and branches.

CHAPTER III

SPECIAL CONSIDERATIONS RELATING TO SALARY LEVELS IN EACH BRANCH

THE EXECUTIVE BRANCH

> **Commissioner Mathias:** Dr. Fauci, I have always considered the National Institutes of Health to be one of the jewels in the federal crown. . . But even with the opportunity to work with world famous Nobel Prize winners, your testimony is that in the last ten years, the National Institutes of Health has not been able to recruit a single senior research scientist from the private or academic sectors to engage in the independent conduct of clinical or basic biomedical research programs?
>
> **Dr. Fauci:** That's correct.
>
> **Commissioner Mathias:** Not a single one?
>
> **Dr. Fauci:** Not one.
>
> *1989 Quadrennial Commission Hearing*
> *November 10, 1988*

We all depend upon the effective and efficient operation of our institutions of government. The efficiency and effectiveness of these institutions depend in turn on the quality, experience and dedication of their highest officials, which in turn are vitally affected by the level of compensation they receive.

Management Excellence

There is a serious, yet subtle problem of maintaining executives in the Executive branch. In testimony before this Commission, former Senate Majority Leader Howard H. Baker, Jr., stated:

> "It remains easy enough to recruit distinguished men and women to serve in a President's Cabinet—particularly since most of these people have made their fortunes elsewhere.
>
> "It is easy enough to get bright and ambitious young men and women to do the entry-level work of government."
>
> "But it is increasingly difficult to recruit and retain well-qualified people for service in the middle and senior management ranks of government, away from the spotlight but at the center of crucial action."

It is rare and difficult for the performance of any organization to exceed the performance level of its executives. It is essential that the Federal Government have the ability to recruit and retain well-qualified individuals with sharply refined skills, experience, and managerial expertise for top level government service. We need to be able to select from among all the best qualified, not just from those few who already have assured their financial well-being, and not just from the young who have high promise but are short on post-education achievement. We need the ability to recruit from the middle of the pool of highly talented people, not just from the top and the bottom.

Special Expertise in the Executive Branch

As indicated by testimony before the Commission, the Federal Government is experiencing severe senior level recruitment and retention problems due to the lack of a competitive compensation structure. This is occurring at a time when the need, the challenges and the opportunities for such executives are greater than ever before.

The National Institutes of Health is the world's premier biomedical research institution. Its advances in biomedical science and technology have created increased opportunities for potentially valuable partnership relationships with private industry. Unfortunately, these advances have also created competition between the public and private sectors for the very investigators who are critical to the conduct of a national biomedical research program.

According to Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, whose testimony is quoted above, the present pay levels do not permit the National Institutes of Health to pay the salaries needed to hire top research scientists today. The National Institutes of Health can sometimes obtain the services of these top scientists indirectly by making contracts with the institutions who employ them at much higher salaries which are then charged to the government plus the institution's overhead expenses. This is far more costly to the government than if it could hire the same scientists at adequate salaries directly. And when government scientists work side by side with private sector scientists who receive much larger salaries from the institutions which contract with the government, an adverse impact on the morale of the government scientists is inevitable.

Adequacy of Compensation

The very best people in the highest levels of management or research are usually competitive individuals who can command large rewards in the job market. Salaries paid to such people by the Federal Government should reflect the importance of these leadership positions to the social, economic and financial well-being of the country. While the prestige of public service often enables the government to attract such individuals for less than their market value, the gap cannot be so wide that the price of prestige is the neglect of family responsibilities that family breadwinners in the private sector are better able to meet.

At present, the Federal Government makes a major investment in training young men and women. All too frequently, just when they become mature enough to turn that training to the public's advantage, they are hired away and paid considerably more in the private profit and non-profit sectors. The dedicated few who remain with government can only find this situation demoralizing.

In the words of Congressman Dan Rostenkowski, "Dedication can only be stretched so far. Unfortunately, more often than not, it seems to reach its snapping point at the very time

that the breadth of experience and the depth of expertise are about to yield the highest quality of government work."

Compression

The Commission is also concerned about the issue of compression for those within its jurisdiction, as well as for supergrade General Schedule employees (some GS–16, GS–17, GS–18) and members of the Senior Executive Service. There are over 100 pay systems in the Federal Government's overall pay structure. Within these overlapping systems, compression occurs when salaries at the upper end of one pay system are capped by the lowest salary of another. A further problem occurs when incremental increases such as cost of living adjustments or bonuses raise an employee's base pay, and the disparity between pay levels diminishes, further moving all salaries closer to their maximum.

Administrative judiciary personnel, such as Administrative Law Judges and Board of Contract Appeals Judges, are particularly subjected to the compression in the General Schedule. These positions lie primarily in the supergrades of the General Schedule, and salary compression has made it difficult to recruit candidates for administrative judicial vacancies from among members of the Senior Executive Service and officials of the General Schedule.

As a result of these three separate pay scales designed to provide varying pay rates for different levels of duties and responsibilities throughout the government, there are a number of cases where the director of a program is paid about the same or sometimes even less than the subordinates who are assigned to the program.

For example, in the Department of Agriculture, the position of the Administrator of the Federal Grain Inspection Service is an Executive Level V with a salary as of December 1988 of $72,500 while the Deputy Administrator has a salary of $75,500 because he is a member of the Senior Executive Service at ES–5. As another example, the position of the Director of the Geological Survey in the Department of the Interior is an Executive Level V with a salary of $72,500, while the Assistant Director is an ES–6 in the Senior Executive Service with a salary of $77,500. The following chart contains other examples of compression.

Chart 6

Executive Schedule	*Senior Executive Service*	*General Schedule*
Level I 99,500		
Level II 89,500		
Level III 82,500		
Level IV 77,500	ES–6 77,500	
	ES–5 75,500	
	ES–4 73,400	
Level V 72,500		GS–16/0 72,500*
	ES–3 70,500	GS–15/10 71,377*
	ES–2 67,600	GS–15/8 67,717*
	ES–1 64,700	GS–15/7 65,887*

*GS–16/1 means the tenth step of the GS–16.
GS–15/10 means the tenth step of the GS–15, etc.
All salaries are as of December 1988.

Statutory restrictions prohibit a Senior Executive Service member from having a base salary in excess of Level IV of the Executive Schedule, and restrictions also prohibit any General Schedule employee from having a base salary in excess of Level V of the Executive Schedule. However, Senior Executive Service employees and some supergrade General Schedule employees are entitled to performance bonuses and other benefits, oftentimes further raising their salaries beyond those of their superiors.

In addition, more than 12 levels of professional government employees, including those at GS–15 level who have had in-grade increases, earn salaries within a maximum range of difference of about $12,500. Without significant increases in the salaries of the Executive Schedule, this problem will continue to exist.

THE LEGISLATIVE BRANCH

"I am not at all certain but that the Congress of the United States is institutionally incapable of setting its own salary. It's really not hard to understand that. It is the grand-daddy conflict of interest of all time.

"I don't think that's the system most Americans want. I think we as a nation are prepared to pay a fair price for a good and honest and capable government.

"The stumbling block in all of this is a system which ties all senior-level federal pay increases to Congressional pay raises. Members of Congress are naturally quite reluctant to raise their own pay, particularly when their salaries are so much higher than that of their average constituent.

"I proudly bear the title 'politician,' and I know how impolitic such self-generated pay raises can be, and I know why these pay raises have been habitually rescinded since at least 1816."

Howard H. Baker, Jr.,
Former Senate Majority Leader
Former White House Chief of Staff

1989 Quadrennial Commission Hearing
November 10, 1988

A striking parallel to Senator Baker's testimony occurred more than 170 years ago. *The Annals of Congress* report the following debate in the House of Representatives in March, 1816, between Henry Clay [Whig Party, 1815–1821] and John C. Calhoun [War Democrat, 1811–1817]:

Mr. Clay: "...The laborer is worthy of his hire; and if you do not give him the wages of honesty, it is to be apprehended the wages of corruption may, in process of time, come to be sought."

Mr. Calhoun: "What is the usual fact? Young men of genius, without property, ... are elected; being tempted into public service by the honorable desire of acquiring distinction in the service of the country; they remain here until they have acquired some experience, and begin to be useful to the country; but are finally compelled to return to private life from the inadequacy of the pay. It is a great public misfortune; it is highly injurious to the proceedings of this House."

The Costs of Elective Office

Election to the House of Representatives or the Senate carries with it job requirements unlike any other federal office. To adequately serve a constituency, a Member must travel frequently between Washington and the district or state and maintain a residence there. Since Congress is now in session more than 200 days a year, it is usually necessary to maintain another home in the Washington, D.C. area. The reasonable and necessary business expenses of the job consume a very substantial percentage of a Member's current salary. When a Member's other family responsibilities are taken into account, most Members find it difficult to live on their current salaries. As a result, Members have resorted to the acceptance of honoraria from interest groups and other sources in order to supplement their federal compensation.

Many witnesses before this Commission have made the point that there is an inherent conflict of interest when Members of Congress are asked to vote on the level of their own salaries. A Member's personal political interest pulls him to vote against such an increase, even though the increase is clearly in the national interest. Moreover, when Members vote against increases for themselves, they usually vote against increases for the other branches as well. This is especially self-serving and contrary to the national interest because the Congress has legislated preferential rules governing the receipt of outside earned income that favor Congress over the other two branches, and allow Members of Congress to supplement their salaries through honoraria and other devices to a much greater extent than judges or officials of the Executive branch.

Honoraria and Other Forms of Outside Earned Income

"Honoraria" are payments for public appearances to deliver a talk or engage in a colloquy at the invitation of some non-governmental group, often one with a material interest in pending or anticipated legislation. The potential for abuse or the appearance of abuse is obvious to the public, and public faith in the integrity of the Members it elects is threatened by the steady growth of this practice. Only a substantial increase in official salaries, coupled with a total prohibition on the receipt of honoraria, can correct the problem.

Over the years Congress has adopted House and Senate rules and enacted legislation governing the practice of acceptance of honoraria in all three branches. The rules are different for each branch, and even between the House and Senate. A table comparing the widely differing statutes and rules is attached as Appendix II to this Report.

The Commission received testimony from present and former leaders of Congress and from others groups that the potential for impropriety in the present rules governing honoraria was so high that the practice of receiving honoraria should be eliminated. Some members of Congress now accept an honorarium of up to $2,000 for attending meetings with a few members of an interest group and listening to their views on a pending bill. Others receive honoraria in amounts vastly exceeding present maximum limits, give the excess to charities (as present law permits), but are entitled under tax laws and regulations to count the excess as part of their earned income for their "Keogh Plan" retirement set-asides, thus greatly increasing their annual tax deductions for such setasides.

The only principled argument that can be made for the practice of accepting honoraria is that official salaries are far too low and must be supplemented by honoraria so that a public official can meet his minimum family obligations. If honoraria be deemed the unfortunate but inevitable consequence of inadequate official compensation, then once official compensation is made adequate, there is no semblance of justification for the continuation of honoraria.

The Commission strongly recommends that the practice of accepting honoraria in all three branches be terminated by statute and by appropriate changes in the House and Senate rules and in the Code of Conduct for United States Judges) at or about the time that the Commission's recommended salary increases, as they may be modified by the President, are allowed to take effect. For this purpose, honoraria should be defined so as to close present and potential loopholes such as receipt of consulting, professional or similar fees, payments for serving on boards, travel, sport, or other entertainment expenses not reasonably necessary for the appearance involved, or any other benefit that is the substantial equivalent of an honorarium. The prohibition should be extended to all Congressional and judicial staff, some of whom are not covered by the present honoraria rules.

A similar but less urgent problem exists with other forms of outside earned income apart from honoraria. As shown in *Appendix B*, present law places a 15% of salary limit on such income in the Executive branch, a 30% of salary limit in the House, and no limit in the Senate or in the Judicial branch. In each branch, however, certain forms of outside earned income are totally prohibited (e.g. law practice in the Senate), although the rules differ for each branch and between the House and Senate.

The Commission recommends that along with the elimination of honoraria, Congress enact legislation and each House modify its Ethics Code to specify that, in addition to existing restrictions on particular activities and services, any activity or service engaged in by any senior official of the Executive, Legislative or Judicial branches to produce outside earned income should be prohibited if it conflicts with or appears to conflict with the performance of official duties. Conforming modifications should also be made in the Code of Conduct for United States Judges.

"In the first ten years of my 17 year tenure, from '69 to '86, there were more judges who left the federal bench for economic reasons than in all the time from the beginning of the Constitution in 1789 up to 1969."

Warren E. Burger
Chief Justice of the United States, Retired

1989 Quadrennial Commission Hearing
November 10, 1988

"After 11½ years of 60-65 hour work weeks, in one of the busiest districts in the United States, my life had been threatened on two occasions, my 9 year old daughter's life had been threatened, my wife was still working, we had not traveled outside the country, and I was unable to foresee how I could afford to send my youngest daughter to the university of our choice, I came to believe that my employer had not treated me fairly in an economic sense.

"The decision to leave the bench was agonizing. However, for years I had been intrigued with the challenge of practicing with talented lawyers in a large, prestigious and active law firm. I took advantage of an excellent opportunity to pursue such a challenge. It is clear in my mind that the quantum increase in compensation was a strong inducement for me to leave the bench. In 1985, at age 57, I had limited productive years ahead, and I also knew that if I entered private practice I could afford to educate our youngest daughter, repair our house, my wife could retire and, finally, my earnings are somewhat comparable to the income earned by a number of law school classmates and many of the lawyers I have trained.

"On the other hand, being a United States District Judge, in my view, is being at the top-top of the legal profession. I miss the honor and privilege of doing my best to provide extremely valuable public service to our country. I miss the Court."

Judge Robert M. Duncan
Former United States District Judge
Southern District of Ohio,
Eastern Division, 1974 to 1985

1989 Quadrennial Commission Hearing
November 11, 1988

"I don't feel badly when judges get second hand cars and keep them for ten years. They can live with that. I don't feel badly when judges have suits which are almost threadbare. They can live with that. And I don't feel badly if judges cannot afford country clubs. Society can survive with that. But for all of us as judges, we know that the passport of opportunity for us was education, the ability to attend the best

universities in this nation and then go out and make a contribution to hopefully improve the quality of life. And judges today are confronted with the real problem as to whether they can provide for their children the type of educational opportunities which they had."

Judge A. Leon Higginbotham, Jr.
United States Circuit Judge
United States Court of Appeals
for the Third Circuit

1989 Quadrennial Commission Hearing
November 11, 1988

It is often claimed that while judicial pay levels are inadequate in major metropolitan areas, they are more than adequate in other parts of the country. However, the Commission received an unsolicited letter from a judge in Macon, Georgia, who had practiced law in a farming community of 6,000 and said that even in rural Georgia he could make more money in private practice than his judicial salary. His letter continued:

"I love the job and would sell off assets, if necessary, to meet my living expenses, the biggest of which is the education of my children. If I didn't have some farm and timberland that my father left me, I doubt if I would be so sure that I will spend the rest of my career on the bench."

Judge Duross Fitzpatrick
U.S. District Court Judge
Middle District of Georgia

Letter to the Commission
November 1, 1988

Inadequacy of Current Judicial Compensation

Service in the federal judiciary has long been regarded as the pinnacle of success and prestige in the legal profession, attracting attorneys of the highest caliber and widest experience. As previous Commissions have noted, the loss in real purchasing power of judicial salaries over the past 20 years is threatening to diminish the quality of justice in this country by dissuading the best and the brightest in all sectors of our society from service on the federal bench.

The Constitution provides that federal judges shall be appointed to serve "during good Behaviour" (i.e., for life), and that their compensation shall not be diminished during their time of service. The concept of lifetime service with undiminished compensation was designed to protect the independence of judges by removing any concern that the President or Congress would curtail their time in office or reduce their salaries. Partly because of this concept and partly because our judges are now drawn from all social classes, the American public places

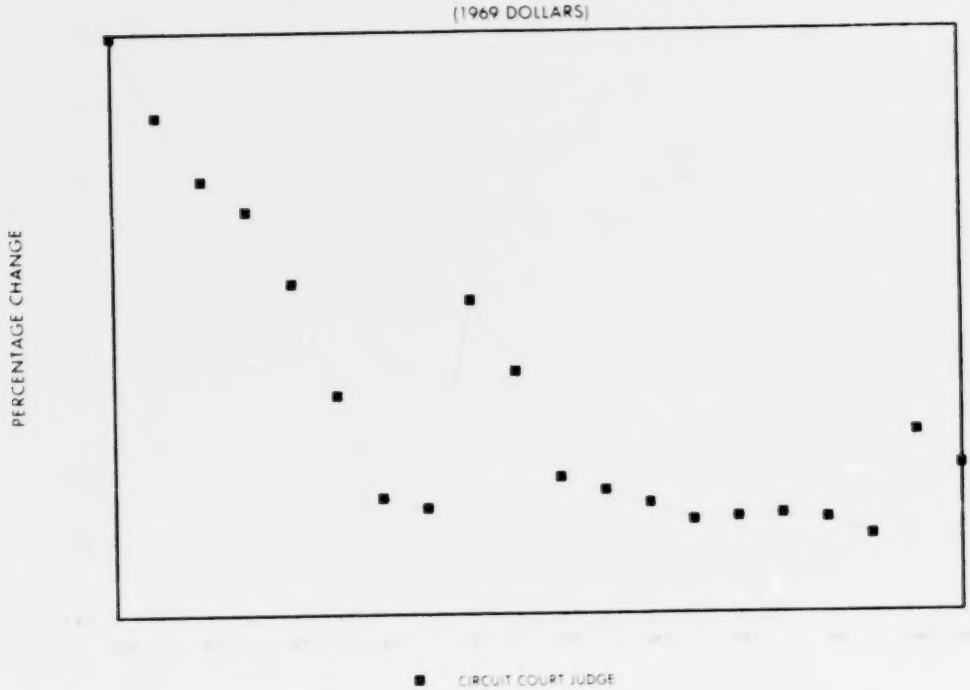
more trust in our diversified and independent judiciary to define and uphold its rights than do the citizens of other democracies.

However, as the following chart shows, salary increases have not kept pace with the cost of living. The constant dollar value of federal judges' salaries has been eroded to less than 70% of what it was in 1969 [Chart 7]. At the same time, the workload of judges has increased dramatically. Despite several increases in the number of authorized judgeships in the last twenty years, caseloads per judge have increased sharply. Since 1969, average District Court caseloads have increased 53%, from 339 to 520 cases per judge per year. The appellate courts have experienced more than a 100% increase, with average caseloads rising from 123 cases per judge in 1969 to 249 in 1988. This combination of less pay for more work has caused many judges to leave the bench for private practice at much higher levels of compensation.

Chart 7

CIRCUIT COURT JUDGES PURCHASING POWER

(1969 DOLLARS)



Source: Office of Personnel Management

Both the American Bar Foundation and the Judicial Conference Committee on the Judicial Branch conducted surveys of federal judges to learn the attitudes and future plans of federal judges if present salaries are not significantly increased.

According to the American Bar Foundation survey, "The Effect of Compensation on the Career Satisfaction Experienced by Federal Judges":

—Ninety-five percent of the responding active judges feel their compensation is inappropriate for the nature of work they undertake and the level of professional achievement they have reached.

—In the absence of a significant increase in compensation 30 percent of the responding active judges plan to leave the federal bench before retirement; 30 percent of those who plan to leave early will do so in the next 5 years.

—Ninety-two percent of the respondents who indicated that they will curtail their tenure state that the low salary level is an important factor in their decisions.

—Judges appointed since 1980, with only 5 to 8 years experience on the bench, are more likely than those with longer judicial experience levels to resign their seats and return to private life.

The increasing number of resignations validate these statistics. In the 15 years from 1958 to 1973 there were only 6 resignations from the federal bench. But in the 15 years from 1974 through 1988 there have been 57. Exit inquiries to 26 judges who resigned in the last ten years, conducted by the Judicial Conference Committee on the Judicial Branch, showed that almost all of the departing judges noted financial considerations as a factor in their decision. The frequency of judicial resignations is now being matched by greater difficulties in recruitment. As Chief Justice Burger testified: "I know of one situation where the first ten people who were invited to take the appointment on a Court of Appeals declined because they could not afford it. The 11th person accepted the appointment."

The Judicial Conference's survey indicates that 73% of judges now on the bench took a pay cut when appointed, and that the average salary reduction was $69,708. A review of law firm pay scales clearly demonstrates the dilemma for a successful attorney with more than 15 years experience and family obligations. The Altman and Weil *1988 Survey of Law Firm Economics* indicates that partners in law firms in cities of 250,000 to 500,000 with 10 to 15 years experience make an average of $125,504; in cities over one million they make an average of $140,577, while those who are the most successful average $217,304. Judges who leave the federal bench can earn much more than these average figures.

Indeed, we now pay our judges less than other leading nations. Great Britain and Canada, the two common law systems most like our own, each pay their judges significantly more than we do.

Honoraria and Outside Earned Income

Since the Code of Conduct for United States Judges restricts most forms of outside earned income for judges, the acceptance of honoraria has remained a relatively minor source of supplemental income for the judiciary. Judges may however, subject to the proper performance of their judicial duties, speak, write, lecture, teach and participate in other activities concerning the law, the legal system and the administration of justice. They may likewise speak, teach, and write on non-legal subjects as long as these activities do not detract from the dignity of the office or interfere with the performance of judicial duties. They may accept honoraria for

such services up to $2,000 per appearance. In 1987, only 110 of 907 Federal District and Circuit Court judges reported accepting any honoraria. Only nine of these judges received more than $5,000 for the year.

If Congress allows substantial increases for all branches to take effect while it also abolishes honoraria for its own members, it is appropriate that honoraria be abolished in all three branches. This would leave judges free to receive outside compensation for continuing activities such as writing scholarly texts or sustained law teaching since such activities are excluded from the definition of honoraria, and usually do not conflict or appear to conflict with their official duties.

CONCLUSION

Last year we celebrated the Bicentenary of our Constitution. We engaged in justifiable self-congratulation knowing that a small group of extraordinarily wise men had created the greatest charter of government ever known to mortal man. How fortunate for us as a people that our Constitution has flourished for two centuries as the embodiment of freedom and serves as the symbol of democracy around the world.

But a Constitution is not self-enforcing. Wise men and women in all branches of government are needed to govern the nation and to give living meaning to the Constitution's precepts and guarantees.

The wise men and women we need can be found in all walks of life and at all levels of economic resources. Our government has never been, nor should it ever be, a government of, by, or for the rich. Talented men and women at all income levels can and do make valuable contributions to our federal public service. Just as we need their talents, they deserve to be equitably compensated for the service they render and for the contributions they make for the public good. Fairness to them is in the self-interest of us all.

APPENDIX

APPENDIX A

SUMMARY OF FEDERAL PAY COMPARABILITY STATUTES

1962—Federal Salary Reform Act of 1962 (P.L. 87-793)

Congress established statutorily the principle of public-private sector pay comparability in this legislation that provided "that the salary rates of the civilian statutory salary systems should be comparable with salary rates in private enterprise for the same work levels."

1967—Postal Revenue and Federal Salary Act (P.L. 90-206)

Title II of this Act provided for pay adjustments for civilian employees of the Government, as well as employees of the Legislative and Judicial branches. The salaries recommended were to "reflect the most recent available Bureau of Labor Statistics evidence of salaries in private enterprise for positions of similar levels of work and responsibility." This is also the Act that created the Quadrennial Commission.

1970—Federal Pay Comparability Act of 1970 (P.L. 91-656)

This Act authorizes a procedure for adjusting the rates of pay for all federal employees who are paid under the statutory pay systems, including General Schedule, Foreign Service and the physicians, dentists and nurses of the Veterans Administration.

The procedure requires the President to direct such agent as he considers appropriate to prepare and submit to him annually a report that compares the rates of pay of the statutory pay systems with the pay in private industry on the basis of the annual survey of the Bureau of Labor Statistics and recommend adjustments in rates of pay based on comparability.

The Advisory Committee on Federal Pay, which was also created by the Act, advises the President on the pay adjustments recommended by the pay agent. The President may determine that due to a national emergency or other economic conditions that it would be inappropriate to make a pay comparability adjustment and he may prepare and submit an alternative pay plan. Since 1984, the Committee has recommended the following increases to achieve comparability:

	Recommended Percentage Increase	Percentage Increase Put Into Effect
1984	21.5	4.0
1985	18.6	3.5
1986	[illegible]	3
1987	2.9	3.0
1988	3.4	2.0
1989	2.9	4.1

1975—Executive Salary Cost of Living Adjustment Act (P.L. 94–82)

This Act provides for annual automatic adjustments in the rates of pay of Federal executives. The legislation provides that an adjustment be made equal to the percentage of such rates of pay which corresponds to the overall average percentage of the annual comparability adjustments in the rates of pay under the General Schedule. This annual adjustment applies to the rates of pay of Members of Congress, judges, positions under the Executive Schedule, and other top positions in the Executive, Legislative and Judicial branches. Such increases are recommended by the President subject to Congressional acceptance, disapproval or modification. [Note: Congress accepted five such increases under this method—1975, 1979, 1984, 1985 and 1987.]

APPENDIX B

SUMMARY OF EXECUTIVE, LEGISLATIVE AND JUDICIAL RULES
ON HONORARIA, OUTSIDE EARNED INCOME, TRAVEL AND FINANCIAL DISCLOSURE

	EXECUTIVE	CONGRESS	JUDICIAL
1. **Honoraria** (Appearance, speech or article for which participant gets paid, excluding meals and payments for continuing services as a teaching)	Federal Election Campaign Act Amendments of 1979, 2 U.S.C. 441i(b): $2,000 limit for each appearance, speech or article, exclusive of travel.	Federal Election Campaign Act Amendments of 1979, 2 U.S.C. 441i(b): $2,000 limit for each appearance, speech or article, exclusive of travel. House Rule XLVII: Resolution $2,000 limit; (See also earned income ceiling rule).	Federal Election Campaign Act Amendments of 1979, 2 U.S.C. 441i(b): $2,000 limit for each appearance, speech or article, exclusive of travel.
2. **Outside Earned Income** (Practice of professional skills, books, etc.)	• Ethics in Government Act of 1978 as Amended 1989, all salary limitations on the receipt of outside earned income, including honoraria of Presidential appointees. Code of Federal Regulations (5 C.F.R.) 2635 Generally prohibits taking any action on any matter in which employee has a personal financial interest. Executive Order 12674: Prescribes standards of ethical conduct for Government officers and employees. Prohibits any interest that conflicts with or appears to conflict with official duties. Office of Personnel Management Regulations (Part 2636 are the implementing regulations for the Executive Order and set the general standard of conduct for the Executive branch).	House Rule XLVII: Limits all outside earned income, including honoraria received by Representatives to no more than 30% of their Congressional salary. Senate: 5 U.S.C. app. 2 (Ethics in Government Act) Limits outside earned income limit. Aggregate honoraria may not exceed 30% of Senator's annual salary. (P.L. 100-202)	Code of Conduct for United States Judges, Canon 5: A judge may receive compensation and reimbursement of expenses for the law related and extra judicial activities permitted by the Code of Judicial Conduct if the source of such payment doesn't give the appearance of influencing the judge in the judge's judicial duties or otherwise give the appearance of impropriety. Compensation should not exceed a reasonable amount nor should it exceed what a non-judge would receive for the same activity.
3. **Other Overriding Limits**	OPM Regulation (Part 2636.305): An employee who is a Presidential appointee shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.	House and Senate: Both Representatives and Senators are prohibited from: Receiving or soliciting compensation for services rendered or to be rendered" by/to Federal agencies (5 U.S.C. 3331). Engaging in certain acts of "self dealing" with private foundations (26 U.S.C. 4941-4945).	(28 U.S.C. 454). The practice of law by justices and judges of the United States is prohibited. Canon 5: A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties or exploit his judicial position.

from any source other than the Federal Government for their official duties. In the context of lecturing and writing, Section 203 prohibits a government employee, with limited exceptions, from accepting an honorarium or other compensation from an outside source for speeches given or articles written in the course of the employee's official duties. In light of that provision, a government employee participating officially in a conference or seminar sponsored by a private entity may not receive an honorarium or other supplementation of salary from the sponsoring entity.

With respect to lecturing and writing as an outside activity, Section 202 of Executive Order 11222 establishes the framework for Executive Branch policy in this area as follows:

"An employee shall not engage in any outside employment, including teaching, lecturing or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing and writing by employees are generally to be encouraged so long as the laws, the provisions of this Order, and Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed."

Federal Election Campaign Act Amendments 2 U.S.C. 44[b]: Actual travel and subsistence expenses for such person and his/her spouse or an aide.

General Services Administration issues travel regulations that apply to all Federal agencies. Additionally, certain agencies have gift acceptance authority which allow private groups to pay travel.

Act, 5 U.S.C. 7[b]
Tracking in some areas of law (18 U.S.C. 203, 204, 18 U.S.C. 209, 46 U.S.C. 1228, 5 U.S.C. 502):
Accepting benefits which "might be construed by reasonable persons as influencing the performance of (their) official duties". 172 Stat., Part II, B-7, para. 503.
Receiving compensation as a result of "influence improperly exerted" from their Congressional position [House Rule XLIII(3); Senate Rule XXXVII(4)].

Senate: Senators are prohibited from:
- Engaging in outside employment for compensation which is in conflict with the performance of official duties [Senate Rule XXXVII(2)].
- Affiliating with a firm, partnership, or association for the purpose of providing professional services for compensation, permitting his or her name to be used by such an organization, and practicing any profession for compensation "to any extent" during regular office hours of the Senate [Senate Rule XXXVII(3)].
- Serving on the board of any regulated or publicly held business corporation unless certain specified conditions have been met [Senate Rule XXXVII(6)].

Federal Election Campaign Act Amendments 2 U.S.C. 44[b]: Actual travel and subsistence expenses for such person and his/her spouse or an aide.

Congressional Ethics Rules:
- Members are banned from accepting gifts worth more than $50 from groups, individuals or corporations with a direct interest in federal laws.
- The Senate defines that interest by the existence of a PAC or registered lobbyist.
- The House definition bans gifts from interests with registered lobbyists or others with a direct interest in legislation before Congress.
- However, travel can be reimbursed by interest groups for expenses incurred in connection with speaking engagements and fact finding tours.

[Senate Rule XXXV and House Rule XLIII(4)]

for should not serve as an officer, director, active partner, manager, advisor, or employee of any business other than a business wholly owned by members of the judge's family.
- A judge should manage his financial interests to minimize the number of cases in which he is disqualified. As soon as he can do so without serious financial detriment, he should divest himself of investments and other financial interests that might require frequent disqualification.
- Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor or loan from anyone except in specified conditions.

Travel Expenses

Federal Election Campaign Act Amendments 2 U.S.C. 44[b]: Actual travel and subsistence expenses for such person and his/her spouse or an aide.

Canon 6H: Limits expense reimbursement to actual cost of travel, food and lodging incurred by the judge and where appropriate, by the judge's spouse.

SUMMARY OF EXECUTIVE, LEGISLATIVE AND JUDICIAL RULES ON HONORARIA, OUTSIDE EARNED INCOME, TRAVEL AND FINANCIAL DISCLOSURE (as of 1979)

	EXECUTIVE	CONGRESS	JUDICIAL
Financial Disclosure	Ethics in Government Act of 1978, as Amended All officers and employees of the Executive Branch whose positions are paid at or above the level of GS-16 of the General Schedule, including the President, the Vice President, the Commander-in-Chief and certain other postal service employees and certain employees whose positions are of a confidential or policy-making character, must file financial disclosure forms which shall include the following information:	Ethics in Government Act of 1978, as Amended Members of Congress and certain individuals whose officers and employees of the Legislative Branch must file financial disclosure forms which shall include the following information:	Ethics in Government Act of 1978, as Amended At the time of nomination and each subsequent year judges must file financial disclosure forms which shall include:
	1. The source, type and amount of income from any source (other than the U.S. Government) and the source, date, and amount of honoraria from any source aggregating $100 or more.	1. The source, type and amount of income from any source (other than the U.S. Government) and the source, date, and amount of honoraria from any source aggregating $100 or more.	1. The source, type and amount of income from any source (other than the U.S. Government) and the source, date, and amount of honoraria from any source aggregating $100 or more.
	2. The source and type of income which consists of dividends, rent, interest, and capital gains received during the preceding calendar year which exceeds $100.	2. The source and type of income which consists of dividends, rent, interest, and capital gains received during the preceding calendar year which exceeds $100.	2. The source and type of income which consists of dividends, rent, interest, and capital gains received during the preceding calendar year which exceeds $100.
	3. The identity of the source and a brief description of any gifts of transportation, lodging, food, and entertainment aggregating $250 or more except personal hospitality and gifts under $35.	3. The identity of the source and a brief description of any gifts of transportation, lodging, food, and entertainment aggregating $250 or more except personal hospitality and gifts under $35.	3. The identity of the source and a brief description of any gifts of transportation, lodging, food, and entertainment aggregating $250 or more except personal hospitality and gifts under $35.
	4. The identity of the source of gifts other than transportation, lodging, food, or entertainment aggregating $100 or more except gifts of $35 or less.	4. The identity of the source of gifts other than transportation, lodging, food, or entertainment aggregating $100 or more except gifts of $35 or less.	4. The identity of the source of gifts other than transportation, lodging, food, or entertainment aggregating $100 or more except gifts of $35 or less.
	5. The identity and category of value of any interest in property in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000, excluding deposits aggregating $5,000 in a personal savings account.	5. The identity and and category of value of any interest in property in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000, excluding deposits aggregating $5,000 in a personal savings account.	6. The identity and and category of value of any interest in property in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000, excluding deposits aggregating $5,000 in a personal savings account.

6. The identity and category of value of the total liabilities owed to any creditor which exceeds $10,000, excluding personal residence mortgages, car loans and household goods loans.

7. The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee or consultant of any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization or any educational or other institution other than the United States excluding honorary positions.

8. A description of any agreements with respect to (a) future employment, (b) leave of absence, (c) continuation of payments by a former employer, (d) continuing participation in an employee welfare or benefit program.

9. Certain information is also required for the spouse and dependent children.

6. The identity and category of value of the total liabilities owed to any creditor which exceeds $10,000, excluding personal residence mortgages, car loans and household goods loans.

7. The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee or consultant of any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization or any educational or other institution other than the United States excluding honorary positions.

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9. Certain information is also required for the spouse and dependent children.

APPENDIX C

Budget Impact Table

	CURRENT PAYROLL BASE			ADDITIONAL COMPENSATION		
	ANNUAL SALARY JAN. 1989 (w/ 4.1% raise)	NUMBER OF POSITIONS	ANNUAL AGGREGATE SALARY ($ in M)	NEW SALARY	ADDED COSTS ($ in M) (Including Benefits of In 35%) FY 1989[1]	FY 1990
EXECUTIVE BRANCH						
Vice President	$115,000	1	$0.115	$175,000	$0.044	$0.070
Executive Schedule, Level I	99,500	19	1.891	155,000	0.767	1.227
Level II	89,500	67	5.997	135,000	2.217	3.547
Level III	82,500	201	16.583	125,000	6.212	9.939
Level IV	80,700	454	36.638	120,000	12.975	20.759
Level V	78,500	92	6.946	115,000	2.643	4.228
		834	68.168		24.857	39.770
LEGISLATIVE BRANCH						
Speaker of the House	115,000	1	0.115	175,000	0.044	0.070
President Pro Tem, Majority & Minority Leaders	99,500	5	0.498	155,000	0.202	0.323
Senators & Representatives & Delegates	89,500	535	47.904	135,000	17.635	28.217
Resident Commissioner of Puerto Rico	89,500	1	0.090	135,000	0.033	0.053
Comptroller General	89,500	1	0.090	135,000	0.033	0.053
Deputy Comptroller General	82,500	1	0.083	125,000	0.031	0.049
Director of CBO, Librarian of Congress	82,500	2	0.165	125,000	0.062	0.099
Architect of the Capitol	82,500	1	0.083	125,000	0.031	0.049
General Counsel, GAO, Architect of the Capitol	80,700	2	0.161	120,000	0.057	0.091
Deputy Director, CBO, Deputy Librarian of Congress	80,700	2	0.161	120,000	0.057	0.091
		549	49.145		18.185	29.099
JUDICIAL BRANCH						
Chief Justice/Retired Chief Justice	115,000	2	0.230	175,000	0.087	0.140
Associate Justices and Retired Associate Justices	110,000	9	0.990	165,000	0.360	0.576
Judges: U.S. Courts of Appeals/Military Appeals	95,000	237	22.515	140,000	7.755	12.409
U.S. District Courts	89,500	799	71.511	135,000	26.437	42.299
Court of International Trade	89,500	14	1.253	135,000	0.463	0.741
U.S. Tax Court	89,500	34	3.043	135,000	1.125	1.800
U.S. Claims Court	89,500	15	1.611	135,000	0.596	0.953
Director, Administrative Office of the U.S. Courts	89,500	1	0.090	135,000	0.033	0.053
Deputy Director, Administrative Office of the U.S. Courts	80,700	1	0.081	120,000	0.029	0.046
		1,115	101.323		36.885	59.015
TOTAL		2,498	$218.636		$79.926	$127.882
COSTS LESS REVENUES RETURNED TO GOVERNMENT			$131.183		$47.956	$76.729

Source: Office of Management and Budget

Figures for FY 1989 represent added costs for two-thirds of the fiscal year, i.e., 2/89–10/89. [1]Level IV is the maximum for this position.

This list does not include the Board of Governors of the U.S. Postal Service, which has nine members in part-time positions, with current salaries of $10,000.

According to testimony given to the Commission by former Director of the Office of Management and Budget, James C. Miller III, increases for top level Executive branch officials could be offset by overall reductions in other budgeted personnel costs.

APPENDIX D

CHARTER OF THE COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

1. OFFICIAL DESIGNATION: Commission on Executive, Legislative and Judicial Salaries.

2. OBJECTIVES AND SCOPE OF ACTIVITY: The Commission was established by Public Law 90-206 (81 Stat. 642) approved December 16, 1967, as amended. The Commission shall conduct every fourth year a review of the rates of pay of:

a. Senators and Members of the House of Representatives, Resident Commissioner from Puerto Rico;

b. offices and positions in the Legislative branch referred to in subsections (a), (b) and (d) of Section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 434; Public Law 88-426);

c. justices, judges and other personnel in the Judicial branch referred to in Sections 402(d) and 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88-426);

d. offices and positions under the Executive Schedule in Subchapter II of Chapter 53 of Title 5, United States Code; and

e. the Governors of the Board of Governors of the United States Postal Services appointed under Section 202 of Title 39, United States Code.

Such review by the Commission shall be made for the purpose of determining and providing the appropriate pay levels and relationships between and among the respective offices and positions covered by such review and the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of Chapter 51 and Subchapter III of Chapter 53 of Title 5, United States Code, relating to classification and General Schedule pay rates.

The Commission shall submit to the President a report of the results of each review conducted by the Commission of the offices and positions stated above, together with its recommendations. The report shall be submitted to the President no later than December 15, 1988.

3. PERIOD OF TIME NECESSARY TO CARRY OUT THE COMMISSION'S REPORT: It is anticipated that the Commission will cease operations on or before January 31, 1989.

4. OFFICIAL TO WHOM COMMISSION REPORTS: The Commission will report to the President.

5. SUPPORT FOR THE COMMISSION: The Director of the Office of Personnel Management shall provide administrative support services for the Commission on a reimbursable basis. In addition, and upon request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of fiscal year 1989, the personnel of such department, agency, or establishment to assist the Commission in carrying out its function.

6. DUTIES OF THE COMMISSION: As described in No. 2 above.

7. ESTIMATED ANNUAL OPERATING COSTS: The estimated cost for salaries and expenses is $170,000 for fiscal year 1989.

8. NUMBER AND CONDUCT OF MEETINGS: Meetings of the Commission will be held at times determined by the Commission. Meetings of the Commission shall be open to the public except as determined otherwise by the Director of the Office of Personnel Management in accordance with the provisions of the Federal Advisory Committee Act.

9. TERMINATION: The Commission shall terminate on or before January 31, 1989.

10. FILING DATE: This Charter is filed on October 3, 1988.

Lloyd N. Cutler
Chairman

APPENDIX E

HEARING AGENDA

REVIEW OF EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

Russell Senate Office Building
Room 385
First Street and Constitution Avenue, N.E.
Washington, D.C.

November 10, 1988

9:30 **Chief Justice Warren E. Burger**
Former Chief Justice

10:00 **Honorable James C. Miller, III**
Former Director
Office of Management and Budget

10:30 **Honorable Constance Horner**
Director
Office of Personnel Management

11:00 **Honorable Howard H. Baker, Jr.**
Former Senate Majority Leader
Former Chief of Staff, White House

11:30 **Mr. Fred Wertheimer**
President, Common Cause

12:00 **Mr. James L. Ferguson**
Chairman and Chief Executive Officer
General Foods Corporation
Former Chairman, Quadrennial Commission
Representing the National Commission on Public Service

12:30 LUNCH

1:30 Legislative Branch

Honorable Vic Fazio
Member of Congress

2:00 Government Ethics

Judge Frank Q. Nebeker
Director, Office of Government Ethics

2:30 Retention of Scientific, Biomedical and Legal Experts

Honorable Charles B. Renfrew
Former Deputy Attorney General

Dr. Anthony S. Fauci
Director, National Institute of Allergy and Infectious Diseases,
National Institutes of Health

Dr. Noel Hinners
Associate Deputy Administrator
National Aeronautics and Space Administration

3:30 Public Interest Groups

Mr. David Keating
National Taxpayers Union

***Mr. Craig McDonald**
Congress Watch

4:00 Associations and Organizations Concerned With Issues Regarding
Federal Salaries

Ms. Lucretia Tanner
Advisory Committee on Federal Pay

Ms. Carol A. Bonosaro
Senior Executives Association

Mr. Alfred A. Zuck
National Academy of Public Administration
Former Executive Director, Quadrennial Commission

Dr. Carl Brauer
Director of Public/Private Careers Project
Kennedy School of Government

Ms. Alice Rogoff
Member, Management Council
Center for Excellence in Government

*Witness unable to attend; testimony submitted for the record.

HEARING AGENDA

REVIEW OF JUDICIAL SALARIES

Interstate Commerce Commission
Hearing Room A
12th and Constitution Avenue, N.W.
Washington, D.C.

November 11, 1988

9:30 ***Mr. Ralph Nader**
Consumer Advocate

10:00 **Panel 1:** Bar Associations

Mr. Robert Raven, President, American Bar Association

Accompanied by: Judge Stanley Brotman, Chairman, Judicial Selection Committee

Joanne Martin, Assistant Director, American Bar Foundation

Mr. Thomas A. Duckenfield, President-Elect, National Bar Association

Mr. Gilbert Paul Carrasco, Chairman of Legal and Legislative Issues Committee, Hispanic National Bar Associations

Ms. Janine Harris, President, National Conference of Women's Bar Associations

11:45 **Panel 2:** Judges Associations Bar Associations

Judge Frank M. Coffin, Chairman, Judicial Conference Committee on the Judicial Branch

Judge Robert H. Hall, President, Federal Judges Association

Judge Philip Tone, President, American College of Trial Lawyers

Judge B. Paul Cotter, Jr., Chairman, Judiciary Section, Federal Bar Association

1:00 Lunch

2:00 **Panel 3:** Sitting Judges/Judges Who Have Left the Bench

Judge A. Leon Higginbotham, Jr., Circuit Judge, Third Circuit Court of Appeals

Judge Joseph H. Rodriguez, District Judge, District of New Jersey

Judge Gabrielle McDonald, Matthews & Branscomb, Austin, Texas

Judge Marvin Frankel, Kramer, Levin, Nessen, Kamin & Frankel, New York, New York

Judge Robert Duncan, Jones, Day, Reavis & Pogue, Columbus, Ohio

***Judge Lynn Higby,** Brant, Higby & Williams, Panama City, Florida

3:30 **Panel 4:** Specialized Courts Within the Commission's Jurisdiction

Judge Robinson Everett, Chief Judge, Court of Military Appeals

Judge Loren Smith, Chief Judge, U.S. Claims Court

Judge B. John Williams, Jr., Judge, U.S. Tax Court

*Witness unable to attend, testimony submitted for the record.

APPENDIX F

RESPONDENTS TO CABINET MEMBER SURVEY

Honorable Otis R. Bowen, M.D.
Secretary of Health and Human Services

Honorable Samuel R. Pierce, Jr.
Secretary of Housing and Urban Development

Honorable Dick Thornburgh
Attorney General

Honorable Ann McLaughlin
Secretary of Labor

Honorable George P. Schultz
Secretary of State

Honorable Philip M. Klutznick
Former Secretary of Commerce

Honorable Caspar W. Weinberger
Former Secretary of Defense

Honorable Shirley M. Hufstedler
Former Secretary of Education

Honorable Alexander M. Haig, Jr.
Former Secretary of State

Honorable Edward W. Kelley, Jr.
Member of the Board
Board of Governors of the Federal Reserve System
(on behalf of the Honorable Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System)

Honorable Grant S. Green, Jr.
Assistant Secretary of Defense
(on behalf of the Honorable Frank C. Carlucci III, Secretary of Defense)

Honorable Linus Wright
Under Secretary of Education
(on behalf of the Honorable Lauro F. Cavazos, Secretary of Education)

Honorable Lawrence F. Davenport
Assistant Secretary of Energy
(on behalf of the Honorable John S. Herrington, Secretary of Energy)

Honorable Jill E. Kent
Assistant Secretary of the Treasury
(on behalf of the Honorable Nicholas Brady, Secretary of the Treasury)

APPENDIX G

LIST OF ADDITIONAL SUBMISSIONS

1. **Honorable Dan Rostenkowski**
House of Representatives
Washington, D.C.

2. **Honorable Charles E. Grassley**
United States Senate
Washington, D.C.

3. **Honorable Tom Tauke**
House of Representatives
Washington, D.C.

4. **Honorable Steny H. Hoyer**
House of Representatives
Washington, D.C.

5. **Honorable William H. Rehnquist**
Chief Justice
Supreme Court of the United States
Washington, D.C.

6. **Anthony M. Frank**
The Postmaster General
Washington, D.C.

7. **Robert N. Weiner, Esq.**
Co-Chair
Section on Courts, Lawyers, and the Administration of Justice
The District of Columbia Bar
Washington, D.C.

8. **William F. McMahon, Esq.**
President
Rhode Island Bar Association
Providence, Rhode Island

9. **A. James Elliott, Esq.**
President
State Bar of Georgia
Atlanta, Georgia

10. **Deborah O'Regan, Esq.**
Executive Director
Alaska Bar Association
Anchorage, Alaska

11. **Honorable George C. Paine, III**
President
National Conference of Bankruptcy Judges
Nashville, Tennessee

12. **Richard W. Palmer, Esq.**
President
Maritime Law Association of the United States
Philadelphia, Pennsylvania

13. **Honorable Raymond L. Acosta**
United States District Court
For the District of Puerto Rico
San Juan, Puerto Rico

14. **Harry D. Dixon, Jr., Esq.**
Chairman
Richard Gitlin, Esq.
President
American Bankruptcy Institute
Washington, D.C.

15. **Robert S. Thompson, Esq.**
Professor of Law
University of California
Los Angeles, California

16. **Honorable John Paul Godich**
President
National Council of United States Magistrates
Indianapolis, Indiana

17. **Honorable Clarence T. Kipps, Jr.**
Chairman
U.S. Claims Court Advisory Council
Washington, D.C.

18. **Henry L. King, Esq.**
President and Delegate to ABA House of Delegates
New York State Bar Association
New York, New York

19. **Edwin L. Klett, Esq.**
President
Academy of Trial Lawyers of Allegheny County
Pittsburgh, Pennsylvania

20. **Honorable Bruce L. Birchman**
Legislative Chairman
The Forum of United States Administrative Law Judges
Washington, D.C.

21. **Honorable Carroll C. Dicus, Jr.**
Chairman
Legislative Committee
BCA Judges Association
Washington, D.C.

22. **Honorable Duross Fitzpatrick**
District Judge
Middle District of Georgia
Macon, Georgia

23. **Honorable Nahum Litt**
Chief Administrative Law Judge
Office of Administrative Law Judges
Washington, D.C.

24. **Honorable John M. Vittone**
Administrative Law Judge and Conference Chair
The National Conference of Administrative Law Judges
Chicago, Illinois

25. **Garry L. Kahn, Esq.**
President
Oregon State Bar
Portland, Oregon

26. **Honorable Jon O. Newman**
U.S. Circuit Judge
United States Court of Appeals
Hartford, Connecticut

27. **Robert E. Lieblich, Esq.**
Spriggs and Hollingsworth
Washington, D.C.

28. **A. Leo Levin, Esq.**
American Judicature Society
Chicago, Illinois

29. **Thomas G. Johnson, Esq.**
President
Federal Energy Bar Association
Washington, D.C.

30. **Susan Warshaw Ebner, Esq.**
Chair, Section on Government Contracts and Litigation
The District of Columbia Bar
Washington, D.C.

31. **Robert G. Baynes, Esq.**
President
The North Carolina State Bar
Raleigh, North Carolina

32. **John F. Jameson**
Assistant Secretary for Administration
Smithsonian Institution
Washington, D.C.

33. **Howard A. Pollack, Esq.**
Braude and Margulies
Washington, D.C.

34. **Donald Reisig, Esq.**
President
State Bar of Michigan
Lansing, Michigan

35. **Thomas A. Zlaket, Esq.**
President
State Bar of Arizona
Phoenix, Arizona

36. **Philip A. Lacovara, Esq.**
President
The District of Columbia Bar
Washington, D.C.

37. **Arthur G. Connolly, Jr., Esq.**
President
Delaware State Bar Association
Wilmington, Delaware

38. **Donald A. Campbell, Esq.**
Judicial Officer
United States Department of Agriculture
Washington, D.C.

39. **Paul V. Carlin, Esq.**
Executive Director
Maryland State Bar Association, Inc.
Baltimore, Maryland

40. **James F. Stapleton, Esq.**
President
Connecticut Bar Association
Rocky Hill, Connecticut

41. **Roy E. Hofer, Esq.**
President
The Chicago Bar Association
Chicago, Illinois

42. **Ralph Mecham, Esq.**
Director
Administrative Office of the United States Courts
Washington, D.C.

BIBLIOGRAPHY

Previous Reports of the Commission on Executive, Legislative and Judicial Salaries

Quality Leadership, Our Government's Most Precious Asset: The Report of the Commission on Executive, Legislative and Judicial Salaries. Washington, D.C., December 1986.

The Quiet Crisis: A Report by the 1984–88 Commission on Executive, Legislative and Judicial Salaries. Washington, D.C., 1985.

Report of the Commission on Executive, Legislative and Judicial Salaries. Washington, D.C.: U.S. Government Printing Office, December 1980.

Report of the Commission on Executive, Legislative and Judicial Salaries. Washington, D.C.: U.S. Government Printing Office, December 1976.

Staff Report to the Commission on Executive, Legislative and Judicial Salaries. Washington, D.C.: U.S. Government Printing Office, February 1977.

Report of the Commission on Executive, Legislative and Judicial Salaries. Washington, D.C.: U.S. Government Printing Office, June 1975.

Report of the Commission on Executive, Legislative and Judicial Salaries. Washington, D.C.: U.S. Government Printing Office, December 1969.

Congressional Hearings, Reports and Research

U.S. House of Representatives. Committee on Post Office and Civil Service. *Current Salary Schedules of Federal Officers and Employees Together With a History of Salary and Retirement Annuity Adjustments.* 100th Congress, 1st Sess., Report No. 100-3. Washington, D.C.: U.S. Government Printing Office, April 30, 1987.

U.S. House of Representatives. Committee on Post Office and Civil Service. *Hearing on Presidential Pay Recommendations.* 100th Congress, 1st Session, Serial No. 100-1. Washington, D.C. U.S. Government Printing Office, February 2 and 3, 1987.

U.S. Senate. Committee on Governmental Affairs, Subcommittee on Oversight of Government Management. *Ethics in Government Act of 1978 As Amended by Public Laws 96-19, 96-28, 97-409, and 98-150.* 98th Congress, 2nd Sess., S. Prt. 98-137. Washington, D.C.: U.S. Government Printing Office, January, 1984.

U.S. House of Representatives. Committee on Post Office and Civil Service. *Hearing on Senior Executive Service.* 98th Congress, 1st and 2nd Sess., Serial No. 98-12. Washington, D.C. U.S. Government Printing Office, 1984.

U.S. Library of Congress. Congressional Research Service. *Salaries for Members of Congress,* by Paul E. Dwyer. Washington, D.C.: Order Code IB86017, Sept. 21, 1988.

U.S. Library of Congress. Congressional Research Service. *Salaries and Allowances: The Executive Branch*, by Sharon S. Gressle. Washington, D.C.: Order Code IB81263, July 13, 1988.

U.S. Library of Congress. Congressional Research Service. *Salaries and Allowances: The Judiciary*, by Sharon S. Gressle. Washington, D.C.: Order Code IB81264, July 13, 1988.

U.S. Library of Congress. Congressional Research Service. *Rate of Increase of Selected Public and Private Wages, Public Pensions, and Social Security Compared with Change in Consumer Price Index, 1969–1988*, by Frederick H. Pauls, Paul Dwyer and Roger Walke. Washington, D.C.: 88-231GOV, March 22, 1988.

U.S. Library of Congress. Congressional Research Service. *A Brief History of Congressional Pay Legislation*, by Paul E. Dwyer and Frederick H. Pauls, Washington, D.C.: 87-685GOV, August 12, 1987.

U.S. Library of Congress. Congressional Research Service. *A Brief History of Congressional Action Restricting Members' Outside Earned Income*, by Mildred Amer, Washington, D.C.: 87-416GOV, May 14, 1987.

Court Decisions and Laws

Humphrey v. Baker, 665 F. Supp. 23 (D.D.C. 1987), 848 F. 2d 211 (D.D.C. Cir.), cert. den. 57 U.S.L.W. 3376 (U.S. Nov. 28, 1988) no. 88-352.

INS v. Chadha, 462 U.S. 919 (1983).

P.L. 94-82, *Executive Salary Cost-of-Living Adjustment Act*. August 9, 1975.

P.L. 91-656, *The Federal Pay Comparability Act of 1970*, as amended.

P.L. 90-206, *Federal Salary Act of 1967, December 16, 1967*, as amended by P.L. 99-190, *Amendment to Federal Salary Act of 1967*, December 19, 1985.

P.L. 87-793, *Federal Salary Reform Act of 1962*, as amended.

Books, Reports and Other Sources

Advisory Committee on Federal Pay. *Report on the Fiscal Year 1989 Pay Adjustment Under the Federal Statutory Pay Systems, August 16, 1988*. Washington, D.C., 1988.

Altman & Weil, Inc. *The 1988 Survey of Law Firm Economics*. Altman & Weil Publications, Inc., Ardmore, Pennsylvania, 1988.

Center for Business and Government, John F. Kennedy School of Government. *Report: Public/Private Careers Project*. Cambridge, Mass., December 16, 1987.

Committee on the Judicial Branch of the Judicial Conference of the United States. *Simple Fairness: The Case for Equitable Compensation of the Nation's Federal Judges*. Washington, D.C., October, 1988.

Corporate Committee for Fair Compensation of the Federal Judiciary and the American College of Trial Lawyers. *Promises Made, Promises Still Unkept: Restoration of Inflation-Induced Salary Cuts for Top Government Officials*. Washington, D.C., 1986.

Hartman, Robert W. and Arnold R. Weber. *The Rewards of Public Service: Compensating Top Federal Officials*. Washington, D.C., The Brookings Institution, 1980.

Administrative Office of the United States Courts. *Code of Conduct for United States Judges*. Washington, D.C., March 5, 1974, as amended.

National Academy of Public Administration, The National Institute of Public Affairs. *America's Unelected Government, Appointing the President's Team*. Editors: John W. Macy, Bruce Adams, J. Jackson Walter; Senior Consultant: G. Calvin MacKenzie, 1983.

Plowden, The Rt. Hon. Lord. *Review Body on Top Salaries, Report No. 27, Eleventh Report on Top Salaries*. Her Majesty's Stationery Office, London, April 1988.

Trowbridge, Alexander B. *Private Leadership and Public Service*. Washington, D.C., National Academy of Public Administration, 1984.

U.S. Merit Systems Protection Board. *Attracting Quality Graduates to the Federal Government: A View of College Recruiting*. Washington, D.C., 1988.

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